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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/568,170

11/13/2006

Frank B. Stamps

0837RF-H532-US

5513

38441

7590

09/19/2008

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EXAMINER

BURCH, MELODY M

ART UNIT

PAPER NUMBER

3683

MAIL DATE

DELIVERY MODE

09/19/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/568,170	<b>Applicant(s)</b> STAMPS ET AL.	
	<b>Examiner</b> Melody M. Burch	<b>Art Unit</b> 3683	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/8/08</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 4, 13, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "the damping valve" first recited in line 1 of claim 3 is indefinite. It is unclear to the Examiner whether the damping valve is intended to refer to the switchable valve recited in claim 1 or to another valve in the damper of the invention. For examining purposes, Examiner has interpreted the damping valve to refer to the switchable valve of claim 1. A similar issue exists in the remaining above listed claims.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 3-11, and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5439082 to McKeown et al.

Re: claims 1, 3-5, and 20. McKeown et al. show in figure 2 a damper having an adjustable spring rate, comprising: a piston 9 having an axis, an outer surface, and

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opposing ends shown in the areas of top and bottom elements 43; elastomeric seals or top and bottom elements 25 in sealing contact with the outer surface of the piston as shown, the seals being coaxial with the piston and limiting movement of the piston to a path along the axis of the piston, the seals also defining fluid chambers 35, 37 adjacent the ends of the piston; a primary passage 31,41 communicating the fluid chambers; and a selectively switchable valve 33,67,69 for controlling a flow of fluid from one of the chambers to another of the chambers through the primary passage; and wherein when the flow of fluid through the primary passage is permitted, movement of the piston is resisted by a first spring rate due to a shear force required to cause shear deflection of the seals; and when the flow of fluid through the primary passage is restricted, movement of the piston is resisted by a second spring rate due to a fluid force required to cause bulging deflection of the seals. See col. 7 lines 14-30.

Re: claims 6-9, 11, 13-18. McKeown et al. show in figure 2 the damper comprising a secondary passage (also considered as a bypass passage in the claims that recite a bypass passage) communicating the fluid chambers 31,39.

Re: claims 10 and 19. McKeown et al. show in figure 2 the limitation of a bypass valve 43 located within the bypass passage.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McKeown et al. in view of Patent 4811919 to Jones.

McKeown et al. describe the invention substantially as set forth above, but are silent with regards to the elastomeric seals being formed of layers of an elastomeric material and a rigid non-elastomeric material.

Jones teaches in figure 3 a damper having a piston 30 supported within a surrounding housing by way of elastomeric seals being formed of layers of an elastomeric material 35a, 35b and a rigid non-elastomeric material 35c, 35d, 35e.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the elastomeric seals of McKeown et al. to have included both elastomeric and rigid non-elastomeric material, as taught by Jones, in order to provide a means of improving the structural integrity of the seals to accommodate large loads.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 3207457 to Kisovec, 3303887 to Pfleiderer, and 2603435 to Metzler teach the use of dampers for connecting an aircraft wing or a blade with the dampers including a switchable valve for controlling flow of fluid to affect operation of the damping devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 571-272-7114. The examiner can normally be reached on Monday-Friday (6:30 AM-3:00 PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Siconolfi can be reached on 571-272-7124. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

mmb

September 14, 2008

/Melody M. Burch/

Primary Examiner, Art Unit 3683